



## **COMMITTEE NAME CHANGE**

As the attached redline rule provides, the purpose of the Fee Arbitration Committee is to “arbitrate fee disputes between attorneys and their clients.” See Rule 14-1102 (a) (Purpose and composition of the committee) attached as Exhibit “A”. The proposed revisions would enlarge that purpose as follows: “The purpose of the Committee is to resolve fee disputes between their attorneys and their clients by means of arbitration, mediation or other alternative dispute resolution mechanisms.” Currently, when either party to a fee dispute refuses binding arbitration, mediation is encouraged as an alternative to help settle differences. For some time now, an increasing number of fee disputes have been resolved by means other than binding arbitration and primarily, by mediation. Mediation is already an implicit alternative within the existing rules and a number of committee members are trained in mediation. Some committee members, in fact, focus their area of legal practice on mediation.<sup>1</sup>

The Fee Arbitration Committee and the Commission believe that a name change would encourage more participation in the fee dispute process by emphasizing that the means for solutions can offer more than just arbitration. By participating in mediation, the parties can fashion their own creative resolution to a fee dispute. A more creative solution can be an attractive option for some lawyers and the clients depending on the circumstances. Moreover, sometimes just having the opportunity to be more fully heard is valuable in and of itself and can help address underlying issues which actually may be driving the dispute. In

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<sup>1</sup> Mediation training is also available through the Committee.

short, the proposed name change more realistically reflects that fee dispute resolution can appropriately take more than one form.

### **RAISING CASE LIMIT FROM \$1,500 TO \$3,000**

Subsection (a) of Rule 14-1105 (Selection of the arbitration panel; additional claims) currently provides that three persons serve on an arbitration panel to hear fee dispute claims (see copy of Rule 14-1105 attached as Exhibit “B”). Each panel consists of one lawyer, one state or federal judge and one non-lawyer. Subsection (b) of the rule currently provides, however, that when a client’s claim is less than \$1,500, only one lawyer adjudicates the proceeding. The Bar would like to raise this threshold to \$3,000. It has become more difficult to assemble of panel consisting of the three designated individuals in a timely manner in order to conduct proceedings for these relatively small fee claims. Judges in particular are difficult to schedule. A significant number of all fee dispute cases fall under \$3,000, and in fact, constitute the majority of the disputes arbitrated. It simply would be more efficient to resolve these disputes more quickly if only one arbitrator is required. The ability to resolve these cases more quickly should also result in more satisfied attorneys and clients.<sup>2</sup>

### **CONCLUSION**

For the reasons set forth above, the Bar respectfully requests the Court to approve this petition to modify the Fee Arbitration Rules.

Dated this \_\_\_\_ day of May, 2007.

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<sup>2</sup> Although the rule currently provides for only for arbitrator for matters under \$1,500, practice has been that if a client or lawyer feels particularly strong about having a judge on the panel, the Committee has been willing to accommodate the request.